



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: September 26, 2006

Department: Zoning, Building and Planning Staff Contact: Catherine VerEecke, Program Planner

TITLE: APPEAL: Special Use Permit for Planned Development Area (CSU-60026/CO-60014)

COUNTY PLANNING COMMISSION RECOMMENDATION:

Approval

SUMMARY:

This appeal was deferred at the August 22, 2006 Board of County Commissioner's hearing at the applicant's and appellant's request to allow them to continue to discuss the proposed development (Attachment 8).

At the July 12, 2006 public hearing, the County Planning Commission (CPC) voted (6-1; Becerra opposed) to recommend approval of the request for a Special Use Permit for a Planned Development Area (9 residential lots) on Tracts A & 21D, located at 10450 Edith Boulevard NE, zoned A-1, containing approximately 4.27 acres. The decision was based on five (5) Findings and subject to twelve (12) Conditions. (See Attachment 1—CPC Notice of Decision).

Under this request, the applicant has been seeking a Special Use Permit for a Planned Development Area in order to develop a 9 lot residential subdivision that will follow the Cluster Housing Principles set forth in the North Valley Area Plan. The development would also include approximately 1.9 acres of landscaped, visually accessible common open space, as required by the Plan, which seeks to preserve rural qualities of the area (See Attachment 2 – CPC Information Packet).

The CPC found, in accordance with Resolution 116-86, that the request is more advantageous to the community by its compliance with the North Valley Area Plan as well as with the Bernalillo County Zoning Ordinance (Section 18.b.23—Special Use Permits, Planned Development Area) in that it proposes a higher density (two dwelling units per acre) than under the existing A-1 zoning in exchange for the provision of open space. The North Valley Area Plan, which contains descriptions, guidelines, and policies for Cluster Housing Development, was adopted by the Board of County Commissioners in 1993 (Attachment 2 – pp. 79-91). At the public hearing, CPC members acknowledged that this request is in compliance with the Cluster Housing Principles of the North Valley Area Plan. (See Attachment 10, Draft CPC Minutes, July 12, 2006.)

Residents from nearby the subject property are appealing the decision of the CPC (Attachment 3). Their argument includes the following: 1) much of the area is zoned A-1 which allows lot sizes of no less than one acre, while the applicant is proposing smaller lots; 2) the proposed density will "change the rural area and encourage more development"; 3) residents "do not want to have 'Cluster Housing' as described in the North Valley Area Plan"; 4) radio towers on the property to the south of the site could fall onto the property; and 5) the development may impact property taxes and availability of water for the area. Residents submitted petitions in opposition to the request (Attachment 7, pp.126-138).

The applicant has submitted a response to the appeal (Attachment 4). The agent states that “our plan represents an appropriate use of the land and it complies with the County Zoning Ordinance, Subdivision Ordinance, and the applicable Planning Goals, policies and requirements for the area.” The request complies with North Valley Area Plan policies and guidelines for Cluster Housing, which requires that at least forty percent of the site be dedicated as common, visually accessible open space. Other issues raised by the appellants, such as suitability of the site for agriculture, impact on home values, drainage, and nearby radio towers are also discussed in the applicant’s response. The Alameda North Valley Association has been in support of the proposed development (Attachment 7, pp.119-125).

On September 12, 2006, the appellant and the applicant reached an agreement regarding a new site development plan for the site (Attachment 9) but have yet to submit a complete plan.

Criteria for Evaluating Zone Map Changes and Special Use Permit Applications

Resolution 116-86 (see Attachment 6) states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

ATTACHMENTS:	PAGE
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3. Appeal application.	98
4. Applicant’s response to appeal	111
5. Draft CPC Minutes, July 12, 2006 (See Attachment 10)	116
6. Resolution 116-86	117
7. Neighbors’ and Neighborhood Association Responses to Appeal	119
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10. Draft CPC Minutes, July 12, 2006	141
11. Site Plan (Commissioners Only)	

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING DEPARTMENT:

Staff Recommends Denial of Appeal.